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In re Application of
VAN EELEN et al.
Application No.: 09/581,912
PCT No.: PCT/NL98/00721
Int. Filing Date: 18 December 1998
Priority Date: 18 December 1997
Attorney's Docket No.: BO 42358
For: INDUSTRIAL PRODUCTION OF
MEAT OUTSIDE THE BODY

Communication
And
Notification of Abandonment

This communication is in response to "Request for Official Filing Receipt" filed in Patent and Trademark Office on 20 August 2001.

BACKGROUND

On 18 December 1999, applicant filed international application No. PCT/NL98/00721, which claimed a priority date of 18 December 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 June 1999. A DEMAND for international preliminary examination was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for submitting the basic national fee for entering the national stage in the United States of America expired at midnight on 18 June 2001.

On 19 June 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the basic national fee; the international application; a first preliminary amendment; and an international preliminary examination report.

On 14 July 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. The notification set a one-month time limit to respond.

On 12 January 2001, applicant filed a declaration and power of attorney executed by two of the four inventors; a small entity statement; and a five-month extension of time.

On 19 July 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) and a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 1.68. Specifically, "the declaration has not been executed by inventors #2 and #4."

On 20 August 2001, applicant filed a "Request for Official Filing Receipt."

DISCUSSION

Applicants request the issuance of the Official Filing Receipt for Serial no. 09/581,912. A review of the application file and other Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Defective Response (Form PCT/DO/EO/916) and a Notification of a Defective Oath or Declaration mailed by the DO/EO/US on 19 July 2001. Specifically, the oath or declaration requirement under 35 U.S.C. 371(c)(4) for entry into the national stage in the United States of America has not been executed by the second inventor, Willem Jan Van Kooten and the fourth inventor, Christine Lindsay Mummery. Since applicants have failed to comply with 35 U.S.C. 371 (c)(4), in that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), executed by the four inventors has not been submitted, applicants request for an Official Filing Receipt is dismissed without prejudice.

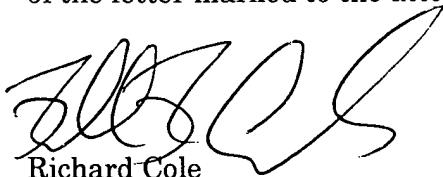
A proper response to the Notification of Defective Response (Form PCT/DO/EO/916) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) mailed 19 July 2001 was due 20 August 2001 (19 August 2001 was a Sunday). No extensions of time were permitted under 37 CFR 1.136. A review of the application files reveals that an oath or power of attorney in compliance with 37 CFR 1.497 (a)-(b) is not located therein, therefore, the application is abandoned for failure to provide a proper response to the Notification of Defective Response (Form PCT/DO/EO/916) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) mailed 19 July 2001.

CONCLUSION

For the reasons above, the present application is ABANDONED and the request for Official Filing Receipt is DISMISSED without prejudice.

If the abandonment of this application is in error, applicant may wish to file a petition under 37 CFR 1.181 or applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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